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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,007

06/18/2008

Colin Gunn

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EXAMINER

NGUYEN, TUNG X

ART UNIT

PAPER NUMBER

2829

MAIL DATE

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06/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,007	<b>Applicant(s)</b> GUNN ET AL.	
	<b>Examiner</b> TUNG X. NGUYEN	<b>Art Unit</b> 2829	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 121-157 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 121-130 and 140-157 is/are rejected.
- 7) ☒ Claim(s) 131-139 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/20/08;8/17/07;2/27/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 121 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 7,282,944. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of "wherein said power supply is operative to convert power flow between said conductive body and said power line into a supply of power at a voltage substantially lower than said high AC line voltage for operation of said electronic circuitry" as recited in claim 1 of the present application will operate the same functions the limitations of "wherein a primary current flows through said power supply between said conductive body and said power line and said power supply converts said primary current into a supply of power at a voltage substantially lower than said high AC line voltage for operation of said electronic circuitry". It would have been obvious to a person having ordinary skill in the art at the time the invention was made to recognize that the power supply always has a primary current flow through the power supply in order to convert the power to operate for the electronic circuitry.

As to claim 122 of the present application discloses the same limitations as recited in claims 3-4 of the U.S patent No. 7,282,944.

As to claim 123 of the present application discloses the same limitations as recited in claim 5 of the U.S patent No. 7,282,944.

As to claim 124 of the present application discloses the same limitations as recited in claim 6 of the U.S patent No. 7,282,944.

As to claim 125 of the present application discloses the same limitations as recited in claim 11 of the U.S patent No. 7,282,944.

As to claim 126 of the present application discloses the same limitations as recited in claim 13 of the U.S patent No. 7,282,944.

As to claim 127 of the present application discloses the same limitations as recited in claims 14-15 of the U.S patent No. 7,282,944.

As to claim 128 of the present application discloses the same limitations as recited in claim 16 of the U.S patent No. 7,282,944.

As to claim 129 of the present application discloses the same limitations as recited in claims 22 and 37 of the U.S patent No. 7,282,944.

As to claim 130 of the present application discloses the same limitations as recited in claim 26 of the U.S patent No. 7,282,944.

As to claim 140 of the present application discloses the same limitations as recited in claim 22 of the U.S patent No. 7,282,944.

As to claim 141 of the present application discloses the same limitations as recited in claim 41 of the U.S patent No. 7,282,944.

As to claim 142 of the present application discloses the same limitations as recited in claims 46, 50 of the U.S patent No. 7,282,944.

As to claim 143 of the present application discloses the same limitations as recited in claim 82 of the U.S patent No. 7,282,944.

As to claim 144 of the present application discloses the same limitations as recited in claim 60 of the U.S patent No. 7,282,944.

As to claim 145 of the present application discloses the same limitations as recited in claim 55 of the U.S patent No. 7,282,944.

As to claim 146 of the present application discloses the same limitations as recited in claim 57 of the U.S patent No. 7,282,944.

As to claim 147 of the present application discloses the same limitations as recited in claim 58 of the U.S patent No. 7,282,944.

As to claim 148 of the present application discloses the same limitations as recited in claim 68 of the U.S patent No. 7,282,944.

As to claim 149 of the present application discloses the same limitations as recited in claim 62 of the U.S patent No. 7,282,944.

As to claim 150 of the present application discloses the same limitations as recited in claim 70 of the U.S patent No. 7,282,944.

As to claim 151 of the present application discloses the same limitations as recited in claim 71 of the U.S patent No. 7,282,944.

As to claim 152 of the present application discloses the same limitations as recited in claim 84 of the U.S patent No. 7,282,944.

As to claim 153 of the present application discloses the same limitations as recited in claim 73 of the U.S patent No. 7,282,944.

***Claim Rejections - 35 USC § 103***

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 154-155 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kline (u.s.p 6,933,835).

As to claim 154, Kline discloses in Figs. 5-6, a method for powering an apparatus (200 of figure 5) mountable coupled with a power line (120 of figure 5) carrying a high AC line voltage, the method comprising: mounting the apparatus (200 of figures 5, 6) such that a current flow occurs between the power line and a conductive portion of the apparatus (col. 9, lines 42-48, via 680, 682 of figure 6), the current flow in the apparatus (flow through 606 and transmitting to 612) and a voltage of the power line (via 682); converting the current flow into a supply of power at a voltage substantially lower than the high AC line voltage (col. 9, lines 42-48); and providing the supply of power to electronic circuitry (610, 612 of figure 6) coupled to the apparatus (200 of figure 6). Kline does not teach the conductive body having a body capacitance. However, It would have been obvious to a person having ordinary skill in the art at the time the invention to recognize the conductive body (200 of figure 5) generating the capacitance between the conductive body and the power line (120 of figure 5).

As to claim 155, Kline discloses in Figs. 5-6, it appears that the high AC line voltage is greater than ten thousand volts, and the electronic circuitry comprising at least one of a voltage sensor (680) and current sensor (602).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 156 is rejected under 35 U.S.C. 102(b) as being anticipated by Whyte et al. (u.s.p 4,142,178 heretoeafter Whyte).

As to claim 156, Whyte discloses in Figs. 3, an apparatus for mounting coupled with a power line carrying a high AC line voltage (26, 28), the apparatus comprising: a conductive body (102) having a body capacitance (98); a first means (94) connected to said conductive body (102) and operative to be connected to said power line (28) for converting current flow between said power line and said conductive body to a supply of power (col. 7, lines 30-35) at a voltage substantially lower than said high AC line voltage (step-down transformer 20), said current flow resulting form the body capacitance of the conductive body and a voltage of said power line (col. 7, lines 30-35); a second means (100) connected to said supply of power for performing an electronic function (70).

7. Claim 157 is rejected under 35 U.S.C. 103(a) as being unpatentable over Whyte et al. (u.s.p 4,142,178 heretoeafter Whyte); in view of Kline (u.s.p 6,933,835).

As to claim 157, Whyte discloses in Fig. 3, all of the limitations except for means for monitoring at least one of said high AC line voltage and current flow in said power line. However, Kline discloses in Figs. 5-6, second means (602, 680, 610, 612) comprising means (602, 680) for monitoring at least one of high voltage, and current



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flow in power line. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention to modify the system of Whyte, and provide the means for monitoring the high voltage or current on the power line, as taught by Kline for determining the consumed power or power usage.

***Allowable Subject Matter***

8. The following is a statement of reasons for the indication of allowable subject matter:

As to claims 131-139, the prior art of record does not teach a metallic plate operative to form a first capacitance with an external reference; a second capacitance coupled between the metallic plate and a system reference; and detection circuitry operative to detect the voltage level on the metallic plate.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUNG X. NGUYEN whose telephone number is (571)272-1967. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ha T. Nguyen can be reached on (571) 272-1678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. X. N./  
Examiner, Art Unit 2829

/VINH P NGUYEN/  
Primary Examiner, Art Unit 2829